

ORIGINAL

COMMISSIONERS
MIKE GLEASON - Chairman
WILLIAM A. MUNDELL
JEFF HATCH-MILLER
KRISTIN K. MAYES
GARY PIERCE



ARIZONA CORPORATION COMMISSION



0000076304

Arizona Corporation Commission

DOCKETED

SEP 20 2007

DATE: SEPTEMBER 20, 2007

DOCKET NO: W-02466A-06-0504

TO ALL PARTIES:



Enclosed please find the recommendation of Administrative Law Judge Marc Stern.
The recommendation has been filed in the form of an Order on:

WALNUT CREEK WATER COMPANY, INC.
(CC&N EXTENSION)


Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Administrative Law Judge by filing an original and ten (10) copies of the exceptions with the Commission's Docket Control at the address listed below by 4:00 p.m. on or before:

OCTOBER 1, 2007

The enclosed is NOT an order of the Commission, but a recommendation of the Administrative Law Judge to the Commissioners. Consideration of this matter has tentatively been scheduled for the Commission's Working Session and Open Meeting to be held on:

OCTOBER 23, 2007 and OCTOBER 24, 2007

For more information, you may contact Docket Control at (602)542-3477 or the Hearing Division at (602)542-4250. For information about the Open Meeting, contact the Executive Director's Office at (602) 542-3931.


BRIAN C. McNEIL
EXECUTIVE DIRECTOR

AZ CORP COMMISSION
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2007 SEP 20 P 1:21

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1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 **COMMISSIONERS**

3 MIKE GLEASON, Chairman
4 WILLIAM A. MUNDELL
5 JEFF HATCH-MILLER
6 KRISTIN K. MAYES
7 GARY PIERCE

8 IN THE MATTER OF THE APPLICATION OF
9 WALNUT CREEK WATER COMPANY, INC. FOR
10 AN EXTENSION OF ITS CERTIFICATE OF
11 CONVENIENCE AND NECESSITY TO PROVIDE
12 WATER SERVICE IN VARIOUS PARTS OF
13 MOHAVE COUNTY, ARIZONA.

DOCKET NO. W-02466A-06-0504

PROCEDURAL ORDER

10 DATE OF HEARING: September 13, 2007

11 PLACE OF HEARING: Phoenix, Arizona

12 ADMINISTRATIVE LAW JUDGE: Marc E. Stern

13 APPEARANCES: Scott Dunton, President, on behalf of Walnut Creek
14 Water Company, Inc.; and
15 Robin Mitchell, Staff Attorney, Legal Division, on
16 behalf of the Utilities Division of the Arizona
Corporation Commission.

17 **BY THE COMMISSION:**

18 On August 7, 2006, Walnut Creek Water Company, Inc. ("Company" or "Applicant") filed
19 with the Arizona Corporation Commission ("Commission") an application for an extension of its
20 Certificate of Convenience and Necessity ("Certificate") to provide water service in various parts of
21 Mohave County, Arizona.

22 On September 1, 2006, pursuant to A.A.C. R14-2-402(C), the Utilities Division ("Staff") filed
23 a Notice of Insufficiency with respect to the Company's application.

24 On November 8, 2006, the Company filed a motion from the Company's president requesting
25 that the proceeding be suspended due to his ongoing medical problems.

26 On December 5, 2006, Staff filed a response to the Company's request indicating that it did
27 not object to Applicant's request and indicated that it believed that the timeclock should be suspended
28 until at least June 30, 2007.

1 On December 12, 2006, by Procedural Order, the timeclock was suspended indefinitely due to
2 the uncertainty expressed by the Company's president. The timeclock was to remain suspended until
3 either a sufficiency letter was issued on this application or it was determined that the matter should be
4 dismissed.

5 On July 16, 2007, Staff issued a Notice of Sufficiency to the Company.

6 On July 27, 2007, by Procedural Order, the above-captioned matter was scheduled for a
7 hearing on September 13, 2007, and Applicant was ordered to publish notice of the application and
8 hearing thereon.

9 On August 20, 2007, the Commission's Utilities Division filed its Staff Report in this matter.

10 On August 23, 2007, the Company filed notice that it had provided public notice pursuant to
11 the terms of the Commission's Procedural Order.

12 On September 13, 2007, a full public hearing was convened before a duly authorized
13 Administrative Law Judge of the Commission at its offices in Phoenix, Arizona. The Company was
14 represented by its president and Staff appeared with counsel. At the conclusion of the hearing, the
15 matter was taken under advisement pending submission of a Recommended Opinion and Order to the
16 Commission.

17 * * * * *

18 Having considered the entire record herein and being fully advised in the premises, the
19 Commission finds, concludes, and orders that:

20 **FINDINGS OF FACT**

21 1. Pursuant to authority granted by the Commission, the Company is an Arizona
22 corporation which is engaged in the business of providing water service in various parts of Mohave
23 County, Arizona.

24 2. On August 7, 2006, the Company filed an application for an extension of its
25 Certificate in Mohave County to provide water service to an area which is marked Exhibit A attached
26 hereto and incorporated herein by reference.

27 3. Notice of the application was provided in accordance with the law.

28 4. On August 20, 2007, Staff filed its Staff Report recommending conditional approval

1 of the application following a hearing.

2 5. At present, the Company provides public water service primarily to approximately 300
3 residential customers.

4 6. With its application, the Company is seeking authorization for an extension of its
5 Certificate to serve approximately 80 acres which are described in Exhibit A. The extension area is
6 nearly adjacent to the northwestern boundary of the Company's existing certificated service area in
7 an unincorporated portion of Mohave County about three miles south of Kingman, Arizona on U.S.
8 Route 66. The extension area is an old 32 lot residential subdivision where only one house was built,
9 but more construction is anticipated.

10 7. Applicant's existing certificated service area consists of approximately 700 acres. The
11 new water distribution facilities will be built by the Company with funds provided by its three owners
12 who also own Walnut Creek Development Company which either sold or still owns all of the
13 remaining lots in the current service area.

14 8. No other municipal or public service corporations provide water service in the
15 proposed service area described in Exhibit A.

16 9. Applicant previously secured a Mohave County franchise for the area sought to be
17 certificated herein and filed it with its application.

18 10. Based on the record, there is ample evidence that the Company has access to an
19 adequate supply of water with five wells and storage to hold up to 315,000 gallons of water to serve
20 existing and future customers. Additionally, the Arizona Department of Water Resources on June 27,
21 2005, issued a Designation of Adequate Water Supply in Decision No. 21-401425.0000.

22 11. Staff reviewed the water facilities of the Company and confirmed that Applicant has
23 adequate facilities and capacity to provide service to existing and future customers in its existing
24 service area and future customers in the requested extension area.

25 12. According to the Staff Report, Applicant is in full compliance with the rules of the
26 Arizona Department of Environmental Quality ("ADEQ") and is providing water which meets the
27 requirements of the Safe Drinking Water Act. Additionally, the Company's water is below the new
28 maximum allowable level for arsenic of 10 parts per billion ("ppb").

13. The Company is current on the payment of its property taxes, and is in compliance with its filing requirements with the Commission.

14. Staff believes that there is a public need and necessity for water service to the requested area and that the issuance of the Certificate is in the public interest.

15. Staff recommends the Commission condition approval of the application as follows:

- that the Company charge its existing tariffed rates and charges in the extension area;
- that the Company file, within two years of the effective date of this Decision, with Docket Control, as a compliance item in this docket, a copy of the applicable ADEQ Certificate of Approval of Construction for the water facilities needed to serve the requested area; and
- that the Company file, by May 31, 2008, a rate application which utilizes a 2007 test year.

16. Staff further recommends that the Commission's Decision granting the requested Certificate extension to the Company be considered null and void, after due process, should the Company fail to meet the second and third conditions listed above within the time specified.

17. Because an allowance for the property tax expense of the Company is included in the Company's rates and will be collected from its customers, the Commission seeks assurances from the Company that any taxes collected from ratepayers have been remitted to the appropriate taxing authority. It has come to the Commission's attention that a number of utilities have been unwilling or unable to fulfill their obligation to pay the taxes that were collected from ratepayers, some for as many as twenty years. It is reasonable, therefore, that as a preventive measure, the Company should annually file, as part of its annual report, an affidavit with the Utilities Division attesting that the company is current in paying its property taxes in Arizona.

18. We find that Staff's recommendations, as set forth in Findings of Fact Nos. 15 and 16 are reasonable and should be adopted.

CONCLUSIONS OF LAW

1. Applicant is a public service corporation within the meaning of Article XV of the Arizona Constitution and A.R.S. §§ 40-281, 40-282 and 40-252.

2. The Commission has jurisdiction over the Company and the subject matter of the application.

1 3. Notice of the application was provided in accordance with the law.

2 4. There is a public need and necessity for water utility service in the proposed service
3 area described in Exhibit A.

4 5. The Company is a fit and proper entity to receive an extension of its Certificate.

5 6. The application by the Company to extend its Certificate for the area described in
6 Exhibit A should be granted as recommended by Staff in Finding of Fact Nos. 15 and 16.

7 **ORDER**

8 IT IS THEREFORE ORDERED that the application of Walnut Creek Water Company, Inc.
9 for an amendment to its Certificate of Convenience and Necessity for the operation of a water utility
10 in the area more fully described in Exhibit A is hereby approved provided that Walnut Creek Water
11 Company, Inc. complies with the conditions as set forth in Findings of Fact Nos. 15 and 16.

12 IT IS FURTHER ORDERED that in the event that Walnut Creek Water Company, Inc. does
13 not timely comply with Findings of Fact Nos. 15 and 16, then the extension of its Certificate of
14 Convenience and Necessity shall be deemed to be null and void after due process.

15 IT IS FURTHER ORDERED that Walnut Creek Water Company, Inc. shall charge water
16 customers in the area more fully described in Exhibit A its tariffed rates and charges authorized
17 previously by the Commission.

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1 I T IS FURTHER ORDERED that Walnut Creek Water Company, Inc. shall annually file, as
2 part of its annual report, an affidavit with the Utilities Division attesting that the Company is current
3 in paying its property taxes in Arizona.

4 IT IS FURTHER ORDERED that this Decision shall become effective immediately.

5 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.
6
7

8 CHAIRMAN _____ COMMISSIONER _____
9

10
11 COMMISSIONER _____ COMMISSIONER _____ COMMISSIONER _____
12

13 IN WITNESS WHEREOF, I, DEAN S. MILLER, Interim
14 Executive Director of the Arizona Corporation Commission,
15 have hereunto set my hand and caused the official seal of the
16 Commission to be affixed at the Capitol, in the City of Phoenix,
17 this ____ day of _____, 2007.

18
19 DEAN S. MILLER _____
20 INTERIM EXECUTIVE DIRECTOR

21 DISSENT _____
22

23 DISSENT _____
24 MES:db
25
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28

1 SERVICE LIST FOR: WALNUT CREEK WATER COMPANY, INC.
2 DOCKET NO.: W-02466A-06-0504
3 Scott Dunton, President
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